

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AUBREY MCDANIELS, AS-1256,	)	
Petitioner,	)	
	)	
v.	)	2:10-cv-297
	)	
MICHAEL W. HARLOW, et al.,	)	
Respondents.	)	

MEMORANDUM and ORDER

Mitchell, M.J.:

Aubrey McDaniels, an inmate at the State Correctional Institution at Mercer has presented a petition for a writ of habeas corpus which he has been granted leave to prosecute in forma pauperis. For the reasons set forth below, the petition is subject to transfer to the United States District Court for the Eastern District of Pennsylvania.

In his petition, McDaniels alleges that the sentence imposed on him by the Court of Common Pleas of Philadelphia County, Pennsylvania in 1988 has been improperly calculated.

It is provided in 28 U.S.C. §2241(d) that:

Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a state which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

While the petitioner is in custody in the Western District of Pennsylvania, the trial court

which sentenced him is located in Philadelphia County, which is located in the Eastern District of Pennsylvania. It, therefore, would appear that the interests of justice would best be served by transferring the petition to the United States District Court for the Eastern District of Pennsylvania.

An appropriate Order will be entered.

ORDER

AND NOW, this 29th day of March, 2010, for the reasons set forth in the foregoing Memorandum, the instant petition will be transferred to the Eastern District of Pennsylvania unless on or before April 14, 2010, the petitioner shows cause why that transfer should not occur.

s/ Robert C. Mitchell  
United States Magistrate Judge